

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, AUGUST 7, 2002**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of August 7, 2002 was called to order by Mayor Pennino at 6:03 p.m.

Present: Council Members – Hitchcock, Howard (arrived at 6:12 p.m.), Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Conference with Human Resources Director Joanne Narloch regarding International Brotherhood of Electrical Workers and Mid-Management; Government Code §54957.6 (HR)
- b) Conference with Human Resources Director Joanne Narloch, regarding Association of Lodi City Employees regarding General Services and Maintenance and Operators; International Brotherhood of Electrical Workers; Lodi Police Dispatchers Association; Lodi Police Officers Association; United Firefighters of Lodi; and Confidential Employees, Management, and Mid-Management Employees pursuant to Government Code §54957.6 regarding military buy back (HR)

**C-3     ADJOURN TO CLOSED SESSION**

At 6:03 p.m., Mayor Pennino adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:57 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:06 p.m., Mayor Pennino reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Item C-2 (a) and (b) Council gave direction to negotiators.

**A.     CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of August 7, 2002 was called to order by Mayor Pennino at 7:06 p.m.

Present: Council Members – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**B.     INVOCATION**

The invocation was given by Pastor Bo Crowe, United Congregational Christian Church.

Mayor Pennino presented Pastor Crowe with a Certificate of Appreciation for his many years of service to the citizens of the community. It was announced that Pastor Crowe was relocating to New York City.

Mayor Pro Tempore Hitchcock commented that she had admired Pastor Crowe as a leader in the area of inclusion, peace, and justice and stated that he would be greatly missed.

**C.     PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Pennino.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

- D-1 (a) Mayor Pennino presented the following "Helen Putnam Awards for Excellence" on behalf of the League of California Cities:

Economic Development

Nancy Wilkinson, Executive Director of the Lodi Conference and Visitors Bureau, awarded for its Agri-Tourism Program

Physical Environment and Land Use

Rad Bartlam, Community Development Director, Community Development Department, and Mike Swearingen (SJCOG) awarded for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan

Public Safety

Jerry Adams, Police Chief, Lodi Police Department, awarded for the Lodi Police Department National Night Out. Chief Adams thanked Carla Code and Jeannie Biskup for their work on the annual community event.

- D-2 (a) Mayor Pennino presented a proclamation to Craig Y. Ogata, Director of Facilities Management with the County of San Joaquin, in celebration of Micke Grove Zoo's 45<sup>th</sup> Birthday on Saturday, August 3, 2002.

- D-3 (a) Megan Hawley and Sweta Patel presented an electronic overhead presentation (filed) on the Greater Lodi Area Youth Commission's activities and accomplishments. Yvette Maragliano, Special Projects Coordinator, acknowledged Yuba Grant who prepared the presentation material and noted that he left in June to attend the United States Air Force Academy. Mayor Pennino presented a Certificate of Appreciation to Megan Hawley for her service to the Youth Commission as the chair from 2001-2002. Ms. Maragliano introduced adult advisors and student members of the Youth Commission. Mayor Pennino presented Certificates of Appreciation to retiring members Megan Hawley, Sweta Patel, Michelle Gau, Yuba Grant (*absent*), and Ashkon Shaahinfar for their service to the Youth Commission.

- D-3 (b) Following introduction by Management Analyst Janet Hamilton, Julie Schumacher, Program Manager with United Cerebral Palsy, presented Street Superintendent George Bradley with its Employer of the Year Award. Mayor Pennino presented a certificate from Senator Machado to Mr. Bradley.

- D-3 (c) Following introduction by Ms. Hamilton, Kashif Khan, President of the South Asian Culture Club, gave a presentation to the City Council on its upcoming Pakistani Independence Day Mela, which will be held on Saturday, August 10 at the Lodi Lake Youth Area. The event is sponsored by Community Partnership for Families of San Joaquin, the Lodi Boys and Girls Club, and the Breakthrough Project. He introduced other members of the Club: Rehan Anwar, Wiquar Shah, and Mubarik Shah.

Mayor Pennino challenged the Youth Commission to look for ways to partner with the South Asian Culture Club.

- D-3 (d) Steve Dutra, Parks Superintendent, stated that a several mile stretch of the Mokelumne River forms the northern boundary of the City of Lodi and Lodi Lake Park. The Lodi Lake nature area is a 58-acre riparian reserve and is the focal point of a K-6 interpretive educational program conducted by Lodi Lake Docent Council volunteers, a group which has been in existence since 1987. In 1994 Lodi's four Rotary Clubs remodeled the existing concession stand building for the purpose of housing interpretive displays and conducting educational programs. In October 2000 the Docent Council refurbished part of the Lodi Lake Discovery Center, subsequent to which Mr. and Mrs. Jay Bell provided oceanic artifacts for a display. Docent Coordinator Kathy Grant organized a committee, which has recently updated the Discovery Center display with a theme that focuses on how the Mokelumne River relates to the community. Mr. Dutra announced that an open house will be held at the Lodi Lake Park Discovery Center on August 14.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Nakanishi second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$5,537,462.08.
- E-2 The minutes of June 18, 2002 (Shirtsleeve Session), June 18, 2002 (Special Meeting), June 19, 2002 (Regular Meeting), June 25, 2002 (Shirtsleeve Session), July 2, 2002 (Shirtsleeve Session), July 16, 2002 (Shirtsleeve Session), and July 23, 2002 (Shirtsleeve Session) were approved as written.
- E-3 "Accept the quarterly report of the City of Lodi pooled money investment account as required by SB564" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-4 Approved the plans and specifications for Henning Substation, Block Wall and Gate project, and authorized advertisement for bids.
- E-5 "Approve specifications and authorize advertisement for bids for portable stages" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-6 Approved the specifications for replacement of carpeting in the Senior Center at Hutchins Street Square and authorized advertisement for bids.
- E-7 Adopted Resolution No. 2002-164 awarding the bid for the purchase of one Battery Capacity Test System to the sole bidder, Power Services Group, of Santa Rosa, CA, in the amount of \$8,345.24; and appropriated funds for this purchase.
- E-8 Adopted Resolution No. 2002-165 accepting the improvements under the "Armory Park Bleacher Improvements," 333 North Washington Street.
- E-9 "Adopt resolution accepting equipment and installation at Lodi Skate Park" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-10 Adopted Resolution No. 2002-166 vacating a portion of the public utility easement at 827 Black Diamond Way.
- E-11 Adopted Resolution No. 2002-167 taking the following action with regard to the Tienda Place, Unit No. 1 development:
  - Approved the Addendum to the Improvement Agreement for the Public Improvements of Tienda Place, Tract No. 3141, and directed the City Manager and City Clerk to execute the Addendum to the Improvement Agreement on behalf of the City;
  - Authorized the City Manager to execute an amendment to the Agreement for Maintenance of Landscape Area within State Highway Right of Way, State Route 12 in the City of Lodi with Caltrans, and a Maintenance Agreement with the developer covering developer's responsibilities for landscape improvements in the Kettleman Lane right of way; and
  - Appropriated funds for applicable reimbursements.
- E-12 Adopted Resolution No. 2002-168 authorizing the City Manager to extend the consulting services agreement with Borismetrics to provide professional services to the Electric Utility Department in the amount of \$50,000 at a reduced billing rate.

- E-13 Adopted Resolution No. 2002-169 supporting the Office of Traffic Safety Bicycle and Pedestrian Safety Program Grant and authorizing the City Manager to execute the Project Agreement, PS0310.
- E-14 "Set public hearing for August 21, 2002 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
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ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-3 "Accept the quarterly report of the City of Lodi pooled money investment account as required by SB564"

NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on this matter.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Nakanishi second, accepted the quarterly report of the City of Lodi pooled money investment account as required by SB564. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Nakanishi, and Mayor Pennino  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Land

- E-9 "Adopt resolution accepting equipment and installation at Lodi Skate Park"

PUBLIC COMMENTS:

- Barbara McWilliams stated that the roller blades and bicycles at the Skate Park are relatively quiet; however, the sound the skate boards make resembles a roller coaster. She recalled that the previous noise study indicated that residents would not be able to hear sounds coming from the Skate Park over the sound of the traffic. She asked if there was any way to dull the sound. She reported that there have been two occasions where the Park remained open beyond agreed upon closing times and untruths were told by Park operators. She asked that this be addressed and stated that residents would like a limitation made on the number of special events.

Mayor Pennino asked staff to look into the possibility of rubberizing part of the surface to diminish the skate board sound and informed Ms. McWilliams that results of another noise study will be forthcoming.

Council Member Land expressed his displeasure about the two incidents that have taken place and stated that the contract with the Skate Park operators must be adhered to.

In reply to Mayor Pro Tempore Hitchcock, Parks and Recreation Director Baltz stated that staff would aggressively, directly, and quickly address the matter of the Park exceeding the time limit.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2002-170 accepting the equipment and installation at Lodi Skate Park, 1145 South Ham Lane.

- E-14 "Set public hearing for August 21, 2002 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited"

Mayor Pennino noted that Council received a "blue sheet" on this item (filed).

PUBLIC COMMENTS:

- Anthony Vignolo, attorney representing Legends Unlimited, reported that at the July 10 Planning Commission hearing regarding this matter one of the Commissioners suggested to his client that she apply for a type 48 liquor license, stating that it was his opinion that the Commission would be favorable if she took that approach. Mr. Vignolo asked Council to extend the public hearing date to October 16, which would allow the Alcoholic Beverage Control (ABC) time to process the exchange of liquor license type from 47 to 48. He noted that if the exchange is approved, the appeal would be withdrawn.

Council Member Howard acknowledged that she spoke with Mr. Vignolo yesterday who stated that he would be submitting the application for the exchange of liquor license type on behalf of his client. She asked staff whether Legends would remain under the same requirements through the extended time if Council chose to set the public hearing for October.

Community Development Director Bartlam explained that as long as there is an appeal filed and it is pending Council action, the Planning Commission's action is put in abeyance until a final decision is made by Council.

In response to Council Member Howard, Mr. Vignolo reported that his client has submitted the completed application to the ABC. Additional documents related to the business must also be filed, which he believed could be accomplished by next Monday.

Council Member Land also acknowledged that he spoke previously with Mr. Vignolo.

In answer to various questions posed by Council Member Land, Mr. Bartlam reported that it is staff's opinion that a type 48 liquor license would require a Use Permit to be reviewed and considered by the Planning Commission. Assuming that the ABC application is filed in a timely manner, the Use Permit could be reviewed by the Commission by October 16. Mr. Bartlam recalled that staff began meeting with representatives of Legends in June 2001. Previously the Planning Commission had been shown a purchase agreement by the representatives of Legends, which showed a closing date of September 18 to sell the business. The Commission's action was to revoke Use Permit 99-02 effective September 19 if the change of ownership did not occur.

Council Member Land believed that adequate time had already been given to the Legends owner and preferred to set the public hearing for August 21.

In response to Mayor Pro Tempore Hitchcock, Mr. Vignolo explained that the Planning Commission revoked the Use Permit on the grounds that Legends was not operating as a bona fide restaurant, which its type 47 liquor license requires. It was the Commission's impression that Legends should be operating under a bar liquor license (type 48). He stated that his client does not wish to be in the business any longer; however, she also does not want to be in a position where she is forced to sell because her business is worth nothing more than the liquidation value of the assets, which is the position she is in now. Once the liquor license type is changed to 48, his client will have a better opportunity of receiving fair market value for the business. He reported that after June 2001 Legends increased security, instituted a dress code, had a "no tolerance" policy, and increased menu items. The City's response to these measures was that they were not sufficient, and a recommendation was made to renovate the business into a full restaurant. He stated that such a renovation would cost in excess of \$200,000 and his client was not prepared to take that step.

Mayor Pro Tempore Hitchcock agreed with the October 16 public hearing date request contingent upon the ABC application being filed prior to August 21.

Council Member Nakanishi acknowledged that he too spoke with Mr. Vignolo previously and supported the request to hold the public hearing on October 16.

Mayor Pennino suggested that the public hearing be set for August 21, at which time it could be continued to October 16 if the Council so desired. He also acknowledged speaking with Mr. Vignolo previously. He encouraged the owner of Legends to make changes to the business, indicating that some of the activities that have taken place there were inappropriate.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously set public hearing for August 21, 2002 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Arthur Price stated that his utility bill has increased 29.5% since last year due to charges for infrastructure replacement. He supposed that Council must have been shocked when citizens filed a referendum petition against the Redevelopment Plan. He believed it to be a clear indication that Council should be more prudent in considering fees, taxes, etc. and remember that the citizens are paying for them. He reminded Council that an election will occur in November and hoped that they would reconsider carefully the projects being planned for.

Council Member Howard explained that the issue of replacing aging outdated water and wastewater pipes was brought before Council last year. She felt it was appropriate and important to increase the rates so that the City could plan ahead for infrastructure replacement. She pointed out that over the last ten years there were no rate increases, and stated that it was unfortunate that rates were not incrementally increased over the years, which would have prevented such a large increase at one time.

Mr. Price stated that the Council should use some restraint and take a harder look at projects before approving them. In reference to the Skate Park project, Mr. Price expressed his opinion that it was a "railroad job" from the beginning.

Council Member Nakanishi reported that throughout the country aging infrastructure is a critical issue. Lodi has a plan and will be replacing its outdated water and wastewater pipes starting on the east side.

At the request of Council Member Nakanishi, Public Works Director Prima reported that Lodi is unique in that it has a formal and adopted policy to fund replacement of its older infrastructure. The target is to replace 1% of the system annually, which is a 100-year lifecycle. Work will begin in the older area on the east side of the City. A request to award a contract for the first major project will be brought to Council at its next meeting.

In response to Mayor Pro Tempore Hitchcock's questions related to the \$6 million payment toward PCE/TCE litigation, Mr. Prima clarified that the basis for the rate increase was due entirely to the infrastructure program. A large infusion of cash was received under the settlement for DBCP a number of years ago and in effect, operations were done off that until the water fund balance became quite low.

City Manager Flynn clarified that when the rate analysis was done it was based upon what the needs were to replace infrastructure on a year to year basis, as opposed to what the fund balance was. Required reserves were considered, as well as the need to address infrastructure in the entire community, not just the east side.

Mayor Pro Tempore Hitchcock addressed Mr. Price and stated that Council considers raising rates very carefully, and in fact it is often put off too long and eventually it gets to the point where rates must be raised significantly, as has happened recently.

Mayor Pennino asked Mr. Prima to send Mr. Price information related to how it was determined and why the rates increased.

Council Member Land reported that his utility bill increased 75%, much of which he attributed to hot weather and extended use of his air conditioning. He warned that rates may be raised further due to State mandates, which will necessitate a \$40 million project to upgrade the wastewater treatment plant.

- Gale Nottingham stated that she manages the Meadows apartments and residents have complained about traffic problems at the intersection of Mills Avenue and Century Boulevard. There is frequent speeding taking place on Century Boulevard and she expressed concern about pedestrian safety. She asked that a stop sign or lights be installed, as well as additional speed limit signs.

Mayor Pennino asked staff to look into the matter and report back to Ms. Nottingham and Council.

Council Member Nakanishi expressed support for Ms. Nottingham's request and agreed with her concerns.

- Jerry Glenn invited Council and residents to participate in the 3<sup>rd</sup> Annual Swing for a Child Golf Tournament at Micke Grove Park on August 26. Proceeds benefit Lodi Adopt-A-Child programs, which Mr. Glenn described.
- Arthur Price spoke in response to Ms. Nottingham's concerns and stated that he had been assured by Mr. Prima eight weeks ago that a stop sign would be installed. He agreed that speeding is a problem in the area and traffic would likely be increasing. He believed that a four-way arterial is required.
- Judy Rowe stated that she attended the Parks and Recreation Commission last night where it was voted unanimously to approve her request for a memorial plaque in memory of her son who died August 16, 2001. Today she was told that approval is also needed from the Council.

City Manager Flynn stated that staff is developing a policy for such requests.

Council Member Land pointed out that the City accepted Ms. Rowe's money for a tree and bench nearly a year ago, and emphasized his desire that staff act rapidly to install the plaque.

Council Member Howard felt that it was important to follow standard approval procedures.

Ms. Rowe pointed out that her request was submitted prior to two other similar requests, which have already been approved.

Council Member Nakanishi supported Ms. Rowe's request.

#### **G. PUBLIC HEARINGS**

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the Public Hearing to consider the introduction of an ordinance amending Chapter 13.20, Electrical Service, by amending §13.20.204 relating to the Residential All Electric SHARE Program Service.

Sondra Huff, Senior Electric Utility Rate Analyst, explained that earlier in the year income limits were increased that allow customers to take part in the Single Household Alternative Rate for Energy (SHARE) program, which provides reduced electric rates.

The All Electric was excluded at that time, and staff is now requesting to include the group, effective October 1.

Council Member Land read the rates as listed on Schedule EF (filed).

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously introduced Ordinance No. 1716 approving the revision to the Residential Single Household Alternative Rate for Energy (SHARE) Schedule ER income eligibility requirements for the Electric Utility Department, which shall become effective October 1, 2002.

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments

- a) The City Council, on motion of Council Member Land, Nakanishi second, unanimously made the following appointments and reappointments to various boards and commissions:

Greater Lodi Area Youth Commission

*Student Appointees:*

Carly Casey	Term to expire August 30, 2003
Gabi del Castillo	Term to expire August 30, 2003
Joey Nardinelli	Term to expire August 30, 2003
Courtney Cook (Reappt.)	Term to expire August 30, 2004
Ricky Gill	Term to expire August 30, 2004
Mary Goad	Term to expire August 30, 2004
Katie Wagenman (Reappt.)	Term to expire August 30, 2004
Katherine Whitmire (Reappt.)	Term to expire August 30, 2004

*Adult Appointees:*

Richard Dean, LUSD (Reappt.)	Term to expire August 30, 2005
Jeff Fleak (Reappt.)	Term to expire August 30, 2005

Library Board of Trustees

Juan Villarreal	Term to expire June 30, 2005
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Lodi Arts Commission

Ann Falos	Term to expire July 1, 2005
James Harvey (Reappt.)	Term to expire July 1, 2005
Cynthia Inman (Reappt.)	Term to expire July 1, 2005
Jennifer Walth (Reappt.)	Term to expire July 1, 2005

Planning Commission

Dennis Haugan	Term to expire June 30, 2006
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H-4 Miscellaneous – None



RECESS

At 9:02 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 9:15 p.m.

I. REGULAR CALENDAR

- I-1 "Adopt resolution authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$25,000 to extend the Lodi Cooling Cash Rebate Program"

Sondra Huff, Senior Electric Utility Rate Analyst, reported that the Lodi Cooling Cash Rebate program has been very successful and staff is requesting \$25,000 to extend the program through September. It allows customers to receive rebates from \$50 to \$225 per ton on central heating and air conditioning units depending on the seasonal efficiency rating of the unit they purchase.

MOTION/ VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Nakanishi second, unanimously adopted Resolution No. 2002-171 authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$25,000 to extend the Lodi Cooling Cash Rebate Program.

- I-2 "Adopt resolution authorizing the City Manager to approve Contract Amendment No. 1 to professional services contract with Mark Thomas and Company for additional services for Lower Sacramento Road (Harney Lane to Kettleman Lane) project design and environmental services (\$77,314)"

Wally Sandelin, City Engineer, reported that the second phase of the Lower Sacramento Road project will occur as a County project in Woodbridge and will include a portion of Woodhaven Lane. The third phase of the project will widen the portion of Lower Sacramento Road from Kettleman Lane to Harney Lane and will be a cooperatively funded project. The City took over the project from the County with its concurrence. Mr. Sandelin described the project as noted in the staff report. He stated that the majority of property owners on the west side of Lower Sacramento Road have approached the City with an offer to dedicate the right of way at no cost. That resulted in several alternatives for the interim project. The ultimate decision was made for a 120 foot right of way. In addition the Federal Highways Administration has expanded the scope of the environmental studies.

In response to Council Member Nakanishi, Mr. Sandelin anticipated that a request for authorization to bid the project will be brought forward to Council in June 2003. Staff has completed the design of Century Boulevard extension from its terminus near Sage Way to Lower Sacramento Road. If there are adequate funds at the time staff comes before Council with a request to bid Lower Sacramento Road, they will make a request to bid both projects concurrently.

In reply to Mayor Pro Tempore Hitchcock, Mr. Sandelin reported that at the location opposite of the future intersection with Century Boulevard there are some duplex units that are close to Lower Sacramento Road. At this point, the proposed project will not impact those units other than bringing the road close to their existing location. There is no relocation anticipated at this time; however, in the event the Federal Highway Administration (FHWA) requires additional studies, due to the proximity of these structures, staff has included the work (approximately \$13,000) in the change order.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2002-172 authorizing the City Manager to approve the requested Contract Amendment No. 1 for Lower Sacramento Road Project design and environmental work for \$77,314, which would result in a total revised appropriation of \$396,854 for preliminary engineering, environmental review, design, and limited construction services.

- I-3 "Adopt resolution authorizing the City Manager to execute two agreements that will provide for the transition from the expiring Pacific Gas & Electric (PG&E) Interconnection Agreement with the City of Lodi for the provision of transmission and ancillary services to the California Independent System Operator (CAISO) being the new provider with the Northern California Power Agency (NCPA) acting as Lodi's agent: 1) Letter of Agreement with NCPA to commit NCPA as Lodi's agent for CAISO activity under the Metered Sub System agreement; and 2) PG&E Replacement Interconnection Agreement with PG&E and NCPA and other City members" was ***pulled from the agenda pursuant to staff's request.***

- I-4 "Adopt resolution amending Traffic Resolution #97-148 approving the conversion of Pleasant Avenue, from Locust Street to the alley south of Locust Street, from one-way traffic (northbound) to two-way traffic"

Public Works Director Prima reported that as part of the police building project, a portion of Pleasant Avenue was abandoned from Elm Street to the alley, leaving a half block from the alley to Locust Street. Staff felt that it would be best to remove the parkway strip on each side of the street from the alley north to Locust Street, which would add about three feet of width to the street and allow two-way traffic. Property owners have been informed.

Council Member Land asked Mr. Prima if he was confident that adding three feet would accommodate two way traffic and parking on both sides of the street.

Mr. Prima replied in the affirmative.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously adopted Resolution No. 2002-173 amending Section 1A of Traffic Resolution #97-148 approving the conversion of Pleasant Avenue, from Locust Street to the alley south of Locust Street, from one-way traffic (northbound) to two-way traffic.

- I-5 "Adopt resolution approving participation in Mokelumne River Water Forum Feasibility Assessment (\$5,000)"

Public Works Director Prima explained that the Mokelumne River Water Forum Feasibility Assessment is not a formal study and the outcome will not result in a project. He stated that water issues today in terms of supply are extremely complex, political, emotional, and have a lot of outside issues, which are no longer just related to engineering. During the Feasibility Assessment, the Center for Public Dispute Resolution will conduct interviews to determine how stakeholders might come together to manage the Mokelumne River for water supply. The total Assessment cost will be approximately \$60,000 and staff recommends that the City put \$5,000 toward this to demonstrate interest in being involved with discussion related to the Mokelumne River.

Council Member Land stated that he had met with the East Bay Municipal Utility District (EBMUD) Board approximately one and a half years ago and expressed an interest on behalf of the City to partner with EBMUD. He commented that a way must be found to better utilize the surplus water at Pardee during surplus years.

In reply to Mayor Pro Tempore Hitchcock, Gerald Schwartz, representing EBMUD, estimated that the assessment phase would take between six months to one year. Subsequent to the assessment is the educational phase, at which each district is

informed about the others needs and problems. Next would be an analysis phase and a negotiation phase. He recalled that the Sacramento Water Forum took six and a half years to complete. The City's \$5,000 contribution would be only toward the assessment phase. Other costs will be decided when stakeholders negotiate.

Council Member Nakanishi asked Mr. Schwartz to convey Lodi's desire to work with EBMUD. He expressed support for the Water Forum Assessment and warned that water will be the next crisis in California. Alternative sources must be found to Lodi's diminishing groundwater supply.

Council Member Howard stated that many different groups have met over the last ten years to try and improve the Mokelumne River area water supplies, but nothing substantial has been done. She asked how the Water Forum Assessment approach might be different.

Mr. Schwartz explained that previous attempts have brought only two groups together at a time, which leaves other interested parties out and creates tension. The assessment process brings everyone together. North San Joaquin Water Conservation District and Stockton East Water District have both offered to be co-sponsors of the assessment phase. Mr. Swartz stated that he plans to make a presentation to the San Joaquin County Water Advisory Commission to encourage participation by the County as well. He explained that potential stakeholders will be identified through the assessment phase.

Council Member Nakanishi reported that he has served on the Water Advisory Commission for the past four years, and expressed his support for Council Member Howard to serve on the Commission. He attributed the current water crisis in California to the divergent views and disagreements between the various stakeholders, meetings of which he likened to "herding cats."

MOTION / VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously adopted Resolution No. 2002-174 approving participation in the Mokelumne River Water Forum Feasibility Assessment and authorizing a contribution of \$5,000 for the project.

I-6 "Review and consider approval of agreement between City of Lodi and Lodi Unified School District for lifeguard services"

Mayor Pennino announced that Council received a draft agreement (filed) related to this item just before tonight's meeting. Staff is asking Council to approve going forward with Lodi Unified School District (LUSD) in an effort to bring back an agreement for Council consideration at a future meeting.

City Manager Flynn explained that after a drowning occurred eight weeks ago, LUSD asked the City to consider providing lifeguard services.

Parks and Recreation Director Baltz clarified that the issue before Council is regarding the City providing lifeguards at Lodi and Tokay High School pools. LUSD would like two lifeguards at each physical education class, which would amount to 2,000 hours during five to six months out of the year. Staff has concerns about liability, cost, and lifeguard recruitment capabilities. Of the City's 40 seasonal lifeguards, only one expressed an interest in working in this capacity at the high schools. Mr. Baltz stated that if the City were to provide lifeguard services to LUSD, an administrative fee of perhaps 10% based on the salary of the recreation supervisor would need to be negotiated.

Council Member Nakanishi expressed support for assisting LUSD as long as the school lifeguard program would remain separate from the aquatics programs provided at Hutchins Street Square.

In response to inquiries by Council Member Land, Bill Huyett, LUSD Superintendent, explained that it would be cost prohibitive for LUSD to replicate the lifeguard training and supervision that the City has in place. LUSD fully intends to pay for all costs related to the City providing these services to Lodi and Tokay High Schools. He reported that last night the Board of Education approved the aquatics safety plan and authorized the superintendent to enter into an agreement with the City.

Council Member Land expressed concern about liability issues and the fact that there have been increased demands placed on Parks and Recreation staff due to the Skate Park, and proposed Indoor Sports Center and Aquatics Facility.

City Attorney Hays stated that if an agreement were pursued the City would try to structure an agreement in which LUSD would both absorb liability and indemnify the City. He noted, however, that such agreements are entered into with the best intentions, but when an incident occurs parties often find themselves fighting over whether or not a particular event is covered by the agreement. He shared Mr. Land's concern and expressed apprehension about the City entering into an agreement to provide lifeguard services to the high schools.

Mayor Pro Tempore Hitchcock also expressed concern about liability.

Mr. Baltz reported that seasonal lifeguards are paid just under \$8 per hour. To assist in attracting lifeguard candidates, discussion has taken place of increasing the rate of pay for regular lifeguards to \$10 an hour, and head lifeguards to \$14 an hour.

Council Member Howard agreed with previously expressed concerns related to liability. If the matter is pursued, she preferred that lifeguard coverage of the City's aquatic facilities take priority over staffing the high schools. She suggested that LUSD consider organizations such as the YMCA for lifeguard services.

Mayor Pennino stated that paying different hourly rates is problematic and would likely cause a domino effect. Employing additional lifeguards would create an additional burden for the City, which has not made a practice of hiring and laying off employees. The administrative fee should take into consideration: salary, benefits, overhead, other staff time, cost for Human Resources to do advertising and hiring, etc. Should this matter be pursued, he preferred that LUSD hire the lifeguards and contract with the City for training only.

In response to concerns expressed about liability, Mr. Flynn pointed out that LUSD allows the City to use their property for programs, and LUSD assumes the liability for the City.

Mr. Huyett summarized that he heard a willingness tonight from Council to continue to work together in the area of staff development and advice, but there is not support in terms of employment and supervision of program development.

Mayor Pennino recommended that Council give approval for staff to continue to work with LUSD.

Mayor Pro Tempore Hitchcock believed that Council is open to providing lifeguard services if there is a way to sever the City's liability and LUSD pays for all costs involved.

Council Member Howard stated that she was not in total agreement with moving forward with formal discussions of any kind.

MOTION / VOTE:

The City Council, on motion of Council Member Nakanishi, Hitchcock second, authorized staff to continue discussions with Lodi Unified School District for lifeguard services. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Nakanishi, and Mayor Pennino

Noes: Council Members – Howard and Land

Absent: Council Members – None

E-5 “Approve specifications and authorize advertisement for bids for portable stages”

Mayor Pro Tempore Hitchcock explained that she pulled this item from the Consent Calendar because funding is requested from the contingency fund. She questioned why it was not budgeted for.

City Manager Flynn stated that the City has only one portable stage at Hutchins Street Square, which is used extensively. The Parks and Recreation Department, as well as others, have a need for this equipment.

In response to Council Member Howard, Mr. Flynn confirmed that the portable stages would be available for any City department to use.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously approved the specifications for six sections of portable stage, with risers, rails, and drapes for use by City departments as needed and authorized advertisement for bids.

J. ORDINANCES

- J-1 Ordinance No. 1715 entitled, “An Ordinance Of The City Council Of The City Of Lodi Amending Title 9, Public Peace, Morals, And Welfare, By Adding Chapter 9.19 – Political Sign Regulations” having been introduced at a regular meeting of the Lodi City Council held July 17, 2002 was brought up for passage on motion of Mayor Pro Tempore Hitchcock, Land second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Nakanishi announced that he attended the Vietnam Veteran Memorial event at Cherokee Memorial Park and asked that Council present a certificate of appreciation to representatives of Cherokee Memorial Park, the Lodi News-Sentinel, Stockton Record, and Penny Saver for their contributions and efforts in getting the Vietnam Moving Wall display in Lodi.
- Council Member Howard commented on the following:
  - She and Ms. Hitchcock also attended the Vietnam Memorial event.
  - She attended the Lodi Greater Area Prayer Breakfast on August 2, at which John Dawson was the guest speaker. She thanked Council Members Hitchcock, Land, and Nakanishi for participating.
  - The Salvation Army plans to move from Lockeford Street to Stockton Street in February 2003. She serves on the Steering Committee and noted that people are being sought to assist with the Salvation Army’s goal to raise \$1 million to pay for the new building. She thanked Pat Patrick for serving as Chair.

- Lt. Virgil Monroe served as her escort at the National Night Out event. Lt. Monroe volunteers as a baseball coach for underprivileged youth and will be taking a group of children to the Giants game.
- She thanked the following hosts at National Night Out: Jackie Space, Nancy Gillespie, Marge Stewart, Nancy Campbell, Patty Kerstand, and Glenn Schiller.
- Council Member Land asked the City Manager to ensure that businesses and residents are notified prior to closing streets for filming purposes. He received a complaint from Mr. Zupo and other businesses that they were not notified prior to yesterday's filming. He read the following statement from a steam field operation forecast report dated June 2002: "The near constant generation from a geothermal field for more than a decade is unprecedented in the geothermal industry and is due to the many steam fields and plan enhancements undertaken by NCPA. The monthly production history also shows the reliability and viability of geothermal as a clean, green, renewable energy source." He stated that this shows that NCPA is doing a good job maintaining the geothermal plants in Sonoma County. Electric Utility has been receiving a lot of calls from customers asking how to sign up for the Home Comfort Discount Program, and he clarified for the viewing audience that it is automatic.
- Mayor Pro Tempore Hitchcock inquired about recent work being done on Lower Sacramento Road.

Public Works Director Prima explained that the original contract had specified a top coat of a special rubberized open graded surfacing treatment. It needed to be applied in warm weather, so it was held over until this year.

Mayor Pro Tempore Hitchcock expressed the following concerns, comments, and requests:

- The Prayer breakfast was wonderful and Ms. Howard did an excellent job being a speaker and helping with the program.
- She and Ms. Howard attended the Wet-n-Wild event coordinated by the Youth Commission. She suggested that in the future, consideration be given to decreasing the range in age groups (12 to 18 years) which attend the event, as well as limiting the number of attendees. She acknowledged the work done by Sweta Patel and Megan Hawley on the event.
- National Kids Day was a wonderful event. April from the Boys and Girls Club coordinated the event and utilized youth for assistance. Carla Cole participated in the event with Crime Stoppers, and a fire truck was present.
- She thanked Lt. Somera for escorting her at the National Night Out event and allowing her to drive his police car. She noted that the community policing concept is very successful as was evident by how many citizens knew Lt. Somera.
- She asked that an update on the greenbelt issue be placed on a future agenda.
- She expressed concern about the PCE/TCE situation. She asked that an item be placed on a future agenda to consider whether to get a second opinion on the matter. She noted that the City continues to spend money and fight decisions. She believed that the City has a responsibility to give out the entire story, not just the positive aspects.

Mayor Pennino suggested that the matter be discussed in a closed session meeting.

Council Member Howard interjected that the Youth Commission will be having its regular monthly meeting this Thursday at Hutchins Street Square, 7:00 p.m., at which the public is invited. She stated that she would relay Ms. Hitchcock's concerns about the Wet-n-Wild event to the Commission.

- Mayor Pennino asked various questions related to the proposed four major projects, to which City Manager Flynn provided the following information:
  - DeBenedetti Park is currently in construction design drawing.
  - Indoor Sports Center – staff will bring the schematic design back to Council and ask for direction at the next meeting to move forward for construction.
  - Animal Shelter is in construction design and staff anticipates bringing the matter back to Council in October. Funds are set aside for the project.

*Continued August 7, 2002*

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced the following birthdays:
  - Steve Schwabauer – August 8
  - Rad Bartlam – August 19
  - Roger Baltz – August 30

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:55 p.m.

ATTEST:

Susan J. Blackston  
City Clerk